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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,310	07/21/2006	Nigel Titchener	5091-9	5035
23117 7590 12/04/2008 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
BRAHAN, THOMAS J				
ART UNIT		PAPER NUMBER		
3654				
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12/04/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/566,310

Applicant(s)

TITCHENER ET AL.

Examiner

Thomas J. Brahan

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-24 and 31-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-24 and 31-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Art Unit: 3654

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

3. Claims 14, 18, 20, 31, 32, 36, 38 and 43 are rejected under 35 U.S.C. § 102(b) as being anticipated by Wendt et al. Wendt et al shows a method of enhancing safety of a stairlift installation comprising a rail (20) extending between upper and lower ends of a staircase, a carriage (22) moveable along the rail, and carriage call switches (see figure 30; note also the this reference incorporates by reference U.S. Patent No. 4,904,916 which has two call switches 23) positioned and manually operable remote from the carriage so that said carriage can be displaced along the rail from positions remote from said carriage, the method comprising: providing a proximity sensor to disable the carriage call switches when a person is proximate the carriage (electrical switch elements 204 stop the carriage upon sensing an obstruction, see column 10, lines 32-46, and the obstruction could be a person on the stairway).

The proximity sensor (204) is mounted to the carriage, as recited in claims 20 and 38. The upper and lower ends of the rail are not within one another's line of sight, as recited in claim 31 and 43.

4. Claims 14, 15, 18, 19, 32, 33, 36 and 37 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Stophrer in view of Born. Stophrer shows the basic claimed stairlift installation comprising a rail (8) extending between upper and lower ends of a staircase, a carriage (10) moveable along the rail, and carriage call switches (58 and 60) positioned and manually operable remote from the carriage so that the carriage can be displaced along the rail from positions remote from the carriage. Stophrer provides proximity sensors (64 and 64) which disable the call switches to slow the carriage at the ends of the rail for a smooth stop, but varies from the claims by not providing a proximity sensor to disable the carriage call switches when a person is proximate the carriage. Born shows a similar

Art Unit: 3654

stairlift installation with proximity sensors (98) which disable the carriage when a rider is proximate to the carriage to allow the rider to safely enter the carriage. It would have been obvious to one of ordinary skill at the time the invention was made by applicant to prove the stairlift installation of Stopher with proximity sensors to disable the carriage to allow the rider to safely enter the carriage, as taught by Born. The proximity sensors of Born are mounted proximate the carriage, as recited in claims 15, 19, 33 and 37.

5. Claims 14, 15, 18, 19, 31-33, 36, 37 and 43 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tremblay et al in view of Gisske et al and Born. Tremblay et al shows the basic claimed stairlift installation comprising a rail (R) extending between upper and lower ends of a staircase, a carriage (10) moveable along the rail. It varies from the claims by being silent as to having call buttons at the upper and lower ends of the rails and by not providing a proximity sensor to disable the carriage call switches when a person is proximate the carriage. Gisske et al shows a similar stairlift installation with call buttons (23) at the upper and lower ends of the rail. Born shows a similar stairlift installation with proximity sensors (98) which disable the carriage when a rider is proximate to the carriage to allow the rider to safely enter the carriage. It would have been obvious to one of ordinary skill at the time the invention was made by applicant to prove the stairlift installation of Tremblay et al with call buttons at the upper and lower ends of the rail to summon the carriage when it is at the opposite end of the rail, as taught by Gisske et al. It would further have been obvious to one of ordinary skill at the time the invention was made by applicant to prove the stairlift installation of Tremblay et al with proximity sensors to disable the carriage to allow the rider to safely enter the carriage, as taught by Born. The proximity sensors of Born are mounted proximate the carriage, as recited in claims 15, 19, 33 and 37. The upper and lower ends of the rail of Tremblay et al are not within one another's line of sight, as recited in claims 31 and 43.

6. Claims 16, 21, 22 and 34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Stopher in view of Born, as applied above to claims 14, 18 and 32, and further in view of Muranaka. Stopher, as modified shows the basic claimed stairlift installation, but varies the claims by not having an occupancy sensor to sense when a rider is in the chair. Muranaka shows a similar stairlift installation with a sensor (23) which senses when a rider is in the chair. It would have been obvious to one of ordinary skill at the time the invention was made by applicant to prove the stairlift installation of Stopher with a load sensor, to sense if the rider is in the chair, as taught by Muranaka.

7. Claims 16, 17, 21, 22, 34 and 35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tremblay et al in view of Gisske et al and Born, as applied above to claims 14, 18 and 32, and further in view of Muranaka. Tremblay et al, as modified shows the basic claimed stairlift installation, but varies from the by not having an occupancy sensor to sense when a rider is in the chair. Muranaka shows a similar stairlift installation with a sensor (23) which senses when a rider is in the chair. It would have been obvious to one of ordinary skill at the time the invention was made by applicant to prove the stairlift installation of Tremblay et al with a load sensor, to

Art Unit: 3654

sense if the rider is in the chair, as taught by Muranaka. Tremblay has a sensor (242) to sense when the chair is folded, as recited in claims 17 and 35.

8. Claims 20, 24, 38 and 42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Stopher in view of Born, as applied above to claims 18 and 36, and further in view of Lester et al. Stopher, as modified, shows the basic claimed stairlift installation but varies from claims 20 and 38 by not having the sensor on the carriage. Lester et al shows a elevator safety device and teaches that elevator proximity sensors could be mounted at each floor, but mounting a single sensor on the car reduces sensor and maintenance costs, see column 3, lines 25-34. It would have been obvious to one of ordinary skill at the time the invention was made by applicant to modify the stairlift installation of Stopher by using a single proximity sensor on the carriage instead of a plurality of sensors, one at each floor, to reduce sensor and maintenance costs, as taught by Lester et al. Re claims 24 and 42, it would further have been obvious to one of ordinary skill at the time the invention was made by applicant to use a capacitance type proximity switch, as also taught by Lester et al, see column 4, lines 44-48.

9. Claims 20, 23, 24, 38, 41 and 42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tremblay et al in view of Gisske et al and Born, as applied above to claims 18 and 36, and further in view of Lester et al. Tremblay et al, as modified, shows the basic claimed stairlift installation but varies from claims 20 and 38 by not having the sensor on the carriage. Lester et al shows a elevator safety device and teaches that elevator proximity sensors could be mounted at each floor, but mounting a single sensor on the car reduces sensor and maintenance costs, see column 3, lines 25-34. It would have been obvious to one of ordinary skill at the time the invention was made by applicant to modify the stairlift installation of Tremblay by using a single proximity sensor on the carriage, instead of separate sensors on each floor level, to reduce sensor and maintenance costs, as taught by Lester et al. Tremblay et al has a folding chair and a position sensor (242) to sense when the chair is folded, as recited in claims 23 and 41. Re claims 24 and 42, it would further have been obvious to one of ordinary skill at the time the invention was made by applicant to use a capacitance type proximity switch, as also taught by Lester et al, see column 4, lines 44-48.

10. Claims 39 and 40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Stopher et al in view of Born and Lester et al, as applied above to claim 38, and further in view of Muranaka. Stopher, as modified shows the basic claimed stairlift installation, but varies from the by not having an occupancy sensor to sense when a rider is in the chair. Muranaka shows a similar stairlift installation with a sensor (23) which senses when a rider is in the chair. It would have been obvious to one of ordinary skill at the time the invention was made by applicant to prove the stairlift installation of Stopher with a load sensor, to sense if the rider is in the chair, as taught by Muranaka.

11. Claims 39 and 40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tremblay et al in view of Gisske et al, Born and Lester et al, as applied above to claim 38, and further in view of Muranaka. Tremblay et

Art Unit: 3654

al, as modified shows the basic claimed stairlift installation, but varies from the by not having an occupancy sensor to sense when a rider is in the chair. Muranaka shows a similar stairlift installation with a sensor (23) which senses when a rider is in the chair. It would have been obvious to one of ordinary skill at the time the invention was made by applicant to prove the stairlift installation of Tremblay et al with a load sensor, to sense if the rider is in the chair, as taught by Muranaka.

12. Applicant's remarks in the amendment filed November 12, 2008 have been considered, but are deemed moot in view of the above new rejections. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Mr. Peter Cuomo, can be reached at (571) 272-6856. The fax number for all patent applications is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Thomas J. Brahan/
Primary Examiner, Art Unit 3654